



STATE OF NEW JERSEY

In the Matter of Alina Fiallo, Senior
Clerk Typist, Kean University

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2020-1874

Administrative Appeal

ISSUED: APRIL 17, 2020 (SLK)

Alina Fiallo, a provisional Senior Clerk Typist, requests that she be permanently appointed as a Senior Clerk.

By way of background, the appellant’s personnel record indicates that she has been provisionally serving as a Senior Clerk Typist since from October 2003 through the present and was a Clerk Typist from October 2000 to October 2003. Additionally, this agency’s records indicate that the appellant’s name was certified to the appointing authority for a permanent position as a Senior Clerk Typist on certification PS030150, and recorded in April 2003 as not interested in specific department at college/university; on certification PS041054, and recorded in September 2005 as interested in future certifications only; and on certification PS100973, and recorded in March 2011 as bypassed. Additionally, the appellant’s name was certified to the appointing authority for a position as a Senior Clerk on certification PS032271, and recorded in February 2004 as not interested in specific department at college/university.

In her request, the appellant presents that she has been provisionally serving as a Senior Clerk Typist for 16 years. She indicates that in 2001, since data entry was one of her responsibilities, she was advised to apply for a position as Senior Data Entry Machine Operator. However, she was later advised that this title was no longer used. In 2002, the appellant states that she was encouraged to apply for a Senior Clerk position, which she did, but her supervisor later advised that she could not offer

her the position. Still, she explains that since she was a fairly new employee, she did not understand how promotions work and she assumed that Senior Clerk was her permanent title. She believes that she did take a typing test in 2002, but did not do well. The appellant states that in 2003, she was again encouraged to apply for a position as a Senior Clerk Typist, which she did. Therefore, the appellant again thought that her permanent title was Senior Clerk as she did not think she could be offered another promotional title if she was not already permanent as a Senior Clerk. She indicates that in 2004, she did not do well on the performance test. The appellant indicates that in 2005, she requested to be reassigned to another department and she was reassigned to the Department of Athletics while still serving provisionally as a Senior Clerk Typist. She states that in 2006, she again took the performance test for Senior Clerk Typist and did not do well. Thereafter, in 2007, after a meeting with appointing authority staff, the appellant was again advised that she would need to fill out another application for a promotional examination. Further, in 2010, she applied for another Senior Clerk Typist examination and states that the appointing authority's human resources department advised her that if she passed the written test, she would be permanently appointed as a Senior Clerk Typist. However, after she passed the written test, she was later advised that she still needed to pass the typing test to be permanently appointed in this title.

She indicates that in October 2010, she was put on medical leave and she asked not to be scheduled for the typing test. However, she received a notice that she was scheduled to take the typing test in February 2011. The appellant states that she sent a letter explaining her situation, but she received a response indicating that she was a "no show" for the typing test. In 2013, she received another e-mail for a promotional announcement for a position as a Senior Clerk Typist. During a meeting with appointing authority staff, she explained that she had previously been advised that if she passed the written examination that she would be permanently appointed as a Senior Clerk Typist without having to take the typing test. However, she was informed that this statement was in error. Further, she was advised that if she did not pass the typing test, she would be placed back in her original title and her salary would be lowered. In 2019, the appellant states that she again received notice for a promotional Senior Clerk Typist examination. At this point, she contacted this agency and she was advised to file the subject request.

Although given the opportunity, the appointing authority has not responded.

CONCLUSION

N.J.S.A. 11A:4-13 provides, in pertinent part, in no case shall any provisional appointment exceed a period of 12 months.

N.J.A.C. 4A:4-1.1 provides that regular appointments to titles to the competitive division of the career service shall be subject to an examination process and successful completion of a working test period.

N.J.A.C. 4A:4-6.3(b) provides that the appellant has the burden of proof in examination appeals.

Initially, it is noted that the appellant indicates that she taken and failed the typing test on multiple occasions and she has given no indication that her typing skills have improved. Therefore, there is no reason to believe that she will be able to pass a current typing test. As such, the appellant's position should not be classified as Senior Clerk Typist.

In reference to the appellant's request to be permanently appointed as a Senior Clerk, it is unclear as to why the appellant assumed in 2002 and 2003 that she was permanently appointed to this title as she did not undergo a competitive examination process for Senior Clerk nor she did successfully complete a working test period for this title. Further, the record does not indicate what the appellant's primary duties are. Therefore, the Commission orders that the appellant's position classification be referred to Agency Services for review.

On final matter needs to be addressed, a review of the appellant's personnel record indicates that she has been provisionally serving as a Senior Clerk Typist since October 18, 2003. While such a violation of *N.J.S.A.* 11A:4-13 does not afford the appellant any rights to a permanent appointment, the appointing authority has not offered any explanation as to why it has maintained the appellant in a provisional position for such a protracted period in which she has not demonstrated via examination that she is qualified to have. Moreover, as the appellant has not demonstrated typing competency via examination, the appointing authority shall immediately change the appellant's provisional appointment from Senior Clerk Typist to Senior Clerk.

ORDER

Therefore, it is ordered that this request be denied and the appellant's provisional appointment shall be changed from Senior Clerk Typist to Senior Clerk. Further, the appellant's position classification is referred to Agency Services for further review.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 15TH DAY OF APRIL , 2020

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